

REMARKS

In a final Office Action mailed August 22, 2007, claims 1-13, 30-34 and 62-77 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of U.S. Patent No. 6,148,291 (Radican). Applicants respectfully traverse and request reconsideration.

Claims 1-12, 30-34 and 62-77 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Elliott in view of Radican. Elliott is directed to a system that tracks a communication device and monitors alarm occurrences for the device based on location and sensor information associated with the device. With regard to claim 1, it is alleged that Elliott teaches the claimed limitations with the exception of “[u]se of at least one container . . . based on the event information and one or more degree of use characteristics of the at least one container.” To this end, it has been asserted that Radican teaches the tracking of location and load status of containers. Therefore, it is asserted that it would have been “obvious to implement or incorporate Radican’s containers in Elliott’s architecture providing reports on container arrivals at a facility, numbers of moves of a container by a switching vehicle, and locations and unloading activities of containers at docks at a facility.”

As an initial matter, Applicants note that the limitation not taught by Elliott actually reads “*non-optimal use* of at least one container . . . based on the event information and one or more degree of use characteristics of the at least one container.” (emphasis added) In contrast, Applicant respectfully submits that Radican, to the extent that it teaches tracking of location and load status of containers, does *not* determine whether containers are being used non-optimally, as presently claimed. Instead, as reflected at col. 7, lines 21-26 for example, Radican teaches such tracking to facilitate efficient use of parts loaded within the containers: “Without the designation of such a container as a ‘partial load’, the customer would have no efficient way of re-locating the container when the remainder of the parts are needed, or of monitoring that the container still

had parts in it and should not be allowed to leave the premises until empty.” Stated more simply, Radican does not teach tracking for non-optimal use of a container, but at most teaches tracking of load status in order to track availability of parts. This distinction is significant to the shipper that controls the containers because the shipper would want to optimize usage of such containers, for example, by detecting occurrences of multiple, partially-loaded containers in transit to a common location. In short, Applicants respectfully submit that Radican fails to teach the cited limitation and therefore fails to remedy the shortcoming of Elliott. As such, the combination of Elliott in view of Radican fails to establish prima facie obviousness of claim 1, which claim is therefore in suitable condition for allowance.

Furthermore, Applicants note that currently-pending independent claims 5, 9 and 30 also incorporate the “non-optimal use of at least one container . . . based on the event information and one or more degree of use characteristics of the at least one container” limitation. For at least the reason given above with respect to claim 1, Applicants respectfully submit that Elliott in view of Radican fails to establish prima facie obviousness of claims 5, 9 and 30, which claims are therefore in suitable condition for allowance.

Claims 2-4, 6-8, 10-13, 31-34 and 62-77 are dependent upon respective ones of claims 1, 5, 9 and 30 and therefore incorporate the limitations of these independent claims. Thus, for at least the reason given above with respect to claim 1, Applicants respectfully submit that Elliott in view of Radican fails to establish prima facie obviousness of claims 2-4, 6-8, 10-13, 31-34 and 62-77, which claims are therefore in suitable condition for allowance. Furthermore, Applicants note that dependent claims 2-4, 6-8, 10-13, 31-34 and 62-77 also recite additional patentable subject matter.

For example, with respect to dependent claims 2, 11 and 31 (as well as independent claim 5), Applicants note that these claims recite a configuration engine component or, more generally, a tracking manager, that periodically causes execution of at least one rule. It is alleged that Elliott teaches this limitation. However, as shown in instant FIG. 2, the configuration engine component 223 is a constituent component of the tracking manager 210, i.e., part of a device akin to Elliott's tracker server 110. In contrast, col. 9, lines 35-56 of Elliott makes clear that any periodic assessment of rules is initiated by Elliott's tracked device 105, not his tracking server 110. (Compare Elliott's col. 10, line 50 – col. 11, line 50 describing an embodiment in which the tracked device 105 determines alarm events and reports accordingly.) This distinction is significant, for example, to the extent that Elliott's tracked device 105 is called upon to continuously and periodically make transmissions that may be prohibitive for power consumption reasons in the event that the tracked device 105 is battery powered. For this reason, Applicants respectfully submit that the combination of Elliott in view of Radican fails to establish prima facie obviousness of claims 2, 5, 11 and 31, which claims are therefore in suitable condition for allowance.

With respect to dependent claims 4, 8, 13 and 33, Applicants note that these claims recite the event information comprising environmental information corresponding to the plurality of containers. As noted, for example, in instant paragraph 0013, “[s]uch environmental information may include, but is not limited to, information regarding temperature, humidity, pressure and vibration or any other environmental variable that may be measured via sensors.” It is alleged that Radican teaches the claimed environmental information. However, inspection of the cited portions of Radican (abstract, col. 2, lines 45-67, col. 4, lines 55-67 and col. 7, lines 8-20) reveals that no such teachings concerning environmental information are provided in Radican.

Indeed, the cited portions refer, at most, to location and load status tracking. For this reason, Applicants respectfully submit that the combination of Elliott in view of Radican fails to establish prima facie obviousness of claims 4, 8, 13 and 33, which claims are therefore in suitable condition for allowance.

With respect to dependent claim 6, Applicants note that this claim recites two or more execution frequencies associated with two or more rules such that the rules are executed with different frequencies. It is alleged that Elliott (col. 10, lines 30-49) teaches these limitations. However, the cited portion of Elliott merely describes how a specific type of alarm event (excessive acceleration of a vehicle) can be determined by the tracking server 110, but is otherwise silent concerning the execution of such rules with differing frequencies. For this reason, Applicants respectfully submit that the combination of Elliott in view of Radican fails to establish prima facie obviousness of claim 6, which claim is therefore in suitable condition for allowance.

With respect to dependent claims 63, 67, 71 and 75, Applicants note that these claims recite determining whether at least two partially-full containers have been dispatched to a destination within a period of time. It is alleged that Radican teaches this limitation. While it is acknowledged that Radican does teach the determination of load status of containers, Applicants note that such determinations are made on the basis of individual containers, and are not at all related to such determinations and simultaneous assessments for multiple containers. That is, the load status taught by Radican (as noted above) is for the benefit of the shipping recipient that needs to know where the delivered goods might be, as opposed to the shipper that wants to ascertain whether the containers are being used efficiently. For this reason, Applicants respectfully submit that the combination of Elliott in view of Radican fails to establish prima

facie obviousness of claims 63, 67, 71 and 75, which claims are therefore in suitable condition for allowance.

Finally, with respect to dependent claims 65, 69, 73 and 77, Applicants note that these claims recite determining whether two containers are less than 90% full when combined. It is alleged that Radican teaches this limitation. For the reasons stated above relative to claims 63, 67, 71 and 75, Applicants submit that Radican fails to teach this limitation. For this reason, Applicants respectfully submit that the combination of Elliott in view of Radican fails to establish prima facie obviousness of claims 65, 69, 73 and 77, which claims are therefore in suitable condition for allowance.

Applicants respectfully submit that the claims are in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

Respectfully submitted,

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